

ORIGINAL

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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

De MONT R. D. CONNER
Rachel L. Kailianu-CONNER
PLAINTIFFS,
vs.

OFFICE OF HAWAIIAN AFFAIRS,
COLETTE MACHADO, CHAIRPERSON,
DAN AHUNA
JOHN D. WAIHEE, IV
OSWALD K. STENDER,
ROBERT K. LINSEY, JR.,
ROWENA N. AKANA
S.HAUNANI APOLIONA, MSW
KANA'IOLOWALU, THE NATIVE
HAWAIIAN ROLL COMMISSION,
JOHN D. WAIHEE, III, CHAIRMAN
COMMISSIONER AT-LARGE,
NĀ'ALEHU ANTHONY, VICE-CHAIRMAN,
O'AHU,
LEI KIHOI, COMMISSIONER, HAWAII,
ROBIN DANNER, COMMISSIONER,
KAUA'I,
MĀHEALANI WENDT, COMMISSIONER,
MAUI,
NEIL ABERCROMBIE, GOVERNOR,
STATE OF HAWAII,
ALL NAMED DEFENDANTS ARE SUED
IN THEIR INDIVIDUAL AND OFFICIAL
CAPACITIES,
DEFENDANTS.

CIVIL NO. CV 14 00350 DKW

RLP

VERIFIED CIVIL RIGHTS ACTION
COMPLAINT, PURSUANT TO 42 U.S.C.
§§1983; 1985(3); AND 1986; WITH
REQUESTS FOR TEMPORARY,
PRELIMINARY AND INJUNCTIVE
RELIEF, AND DEMAND FOR JURY
TRIAL; SUMMONS

VERIFIED CIVIL RIGHTS ACTION COMPLAINT, PURSUANT TO 42 U.S.C. §§1983; 1985(3); AND 1986; WITH REQUESTS FOR TEMPORARY, PRELIMINARY AND INJUNCTIVE RELIEF, AND DEMAND FOR JURY TRIAL

COMES NOW PLAINTIFF'S De MONT R. D. CONNER and Rachel L. Kailianu-CONNER¹, ("Plaintiff's"), Native Hawaiian (originally known as "Kanaka Maoli") beneficiaries of the Defendants' agency, proceeding Pro Se, and hereby files this Verified Complaint with Request For Declaratory and Injunctive Relief, as well as monetary damages, against a State-Created agency so-called: Office of Hawaiian Affairs (hereinafter "OHA")², as well against the present Board of Trustees(hereinafter "BOT"), The Native Hawaiian Roll Commission, a.k.a. "Kana`iolowalu" and its Commissioners, as well as Neil Abercrombie, Governor of the State of Hawaii, (hereinafter collectively known as "Defendants"), named specifically herein and above, in their individual and official capacities.

This Verified Complaint is based upon the Federal Civil Rights Statutes, the Federal Conspiracy Statutes, as well as the Doctrine of Ex Dolo Malo Non Oritur Actio: "Out of Fraud no action arises". See Black's Law Dictionary, 5th Ed.

JURISDICTION

Jurisdiction is conferred on this Honorable Court pursuant to 28 U.S.C. §1333(a)(1), (2) and (3).

¹ The Plaintiff's seek this Honorable Court to take Judicial Notice of the fact that the Plaintiffs are now & forever will be Hawaiian Nationalists, seeking a complete return of OUR COUNTRY, the Kingdom of Hawai'i, of which the United States, by and through the fictitious "State of Hawaii" is currently Occupying. However, Plaintiffs are not raising within this litigation any challenges to the legality of the fictitious "State of Hawaii". Plaintiffs are simply working within the "System" to right wrongs done by Defendant OHA and its "Board of Trustees", in the name of all Kanaka Maoli

² This Honorable Court should also take Judicial Notice that the so-called "Office of Hawaiian Affairs", purports to be a State agency responsible for the portion of the §5(f) proceeds

Venue is generally conferred upon this Honorable Court pursuant to 28 U.S.C. §1391.

PARTIES

1. Plaintiff De MONT R. D. CONNER, is and was at all times herein relevant a Native Hawaiian (hereinafter "Kanaka Maoli" the true original and non-offensive name of the aboriginal peoples who resided here BEFORE Captain Cook and Western Contact.), and a resident of the so-called "State of Hawaii".
2. Plaintiff Rachel L. Kailianu-CONNER, is and was at all times herein relevant a Native Hawaiian (hereinafter "Kanaka Maoli" the true original and non-offensive name of the aboriginal peoples who resided here BEFORE Captain Cook and Western Contact.), and a resident of the so-called "State of Hawaii",
3. Defendant OHA is and was at all times herein relevant, a State of Hawaii created entity that purports to be an "independent corporate body", and is being sued in its official capacity only for the sole purpose of Declaratory and Injunctive Relief.
4. Defendant Colette Machado, is and was at all times herein relevant, the Chairperson of the BOT of Defendant OHA, and a resident of the State of Hawaii. She is being sued in her individual and official capacities.
5. Defendant Dan Ahuna, is and was at all times herein relevant, a member of the BOT of Defendant OHA, and a resident of the State of Hawaii. He is being sued in his individual and official capacities.

6. Defendant John D. Waihee, IV³, is and was at all times herein relevant, a member of the BOT of Defendant OHA, and a resident of the State of Hawaii. He is being sued in his individual and official capacities.

7. Defendant Oswald K. Stender, is and was at all times herein relevant, a member of the BOT of Defendant OHA, and a resident of the State of Hawaii. He is being sued in his individual and official capacities.

8. Defendant Robert K. Lindsey, Jr., is and was at all times herein relevant, a member of the BOT of Defendant OHA, and a resident of the State of Hawaii. He is being sued in his individual and official capacities.

9. Defendant Rowena N. Akana, is and was at all times herein relevant, a member of the BOT of Defendant OHA, and a resident of the State of Hawaii. She is being sued in her individual and official capacities.

10. Defendant S. Haunani Apoliona, is and was at all times herein relevant, a member of the BOT of Defendant OHA, and a resident of the State of Hawaii. She is being sued in her individual and official capacities.

11. Defendant Kana`iolowalu, also known as the "Native Hawaiian Roll Commission" (hereinafter "NHRC"), is and was at all times herein relevant a State of Hawaii created entity, whose purported purpose is to facilitate in the creation of a Native Hawaiian governing entity. NHRC is being sued in its official capacity solely for the purpose of Declaratory and Injunctive Relief.

³ Plaintiffs seek this Honorable Court to take Judicial Notice of the fact that Defendant John D. Waihee, IV, is the biological son of Defendant John D. Waihee, III. This is a material fact that will be vital to this litigation.

12. Defendant John D. Waihee, III⁴, is and was at all times herein relevant, the Chairman - Commissioner at-large of Defendant NHRC, and a resident of the State of Hawaii. He is being sued in his individual and official capacities.

13. Defendant Nā'alehu Anthony, is and was at all times herein relevant, the Vice Chairman - Commissioner – O`ahu, of Defendant NHRC, and a resident of the State of Hawaii. He is being sued in his individual and official capacities.

14. Defendant Lei Kihoi, is and was at all times herein relevant, the Commissioner – Hawaii, of Defendant NHRC, and a resident of the State of Hawaii. She is being sued in her individual and official capacities.

15. Defendant Robin Danner, is and was at all times herein relevant, the Commissioner – Kaua`i of Defendant NHRC, and a resident of the State of Hawaii. She is being sued in her individual and official capacities.

16. Defendant Māhealani Wendt, is and was at all times herein relevant, the Commissioner - Maui of Defendant NHRC, and a resident of the State of Hawaii. She is being sued in her individual and official capacities.

17. Defendant Neil Abercrombie, is and was at all times herein relevant, the Governor of the State of Hawaii, and a resident of the State of Hawaii. He is being sued in his individual and official capacities.

⁴ Defendant Waihee, III is the father of Defendant Waihee, IV, id.

CLASS ACTION

18. Plaintiffs bring this action on behalf of themselves and all other persons similarly situated, pursuant to Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure, for declaratory and injunctive relief. Plaintiffs represent two classes of persons: All those who are Native Hawaiians (a.k.a. Kanaka Maoli), and as individuals, all those who are a "Class of One". See Village of Willowbrook v. Olech, 528 U.S. 562, 120 S.Ct. 1073(2000).

FACTS

19. Act 195, Session Laws of Hawaii 2011, recognizes Native Hawaiians as the indigenous people of Hawaii that exercised sovereignty as a people.

20. It also created the Native Hawaiian Roll Commission, members who would be appointed by the Governor from nominations made by Native Hawaiian organizations. The purpose of the Commission is to develop and oversee the process of enrolling Native Hawaiians for the purposes of organizing a sovereign entity.

21. The Native Hawaiian Roll Commission was signed by Governor of Hawaii, Defendant Neil Abercrombie on July 7, 2011.

22. On September 8, 2011, Governor Abercrombie appointed five Native Hawaiians to the Native Hawaiian Roll Commission: Former Hawai'i Governor, John Waihe'e, III; Nā'alehu Anthony; Robin Danner; Māhealani Perez-Wendt; and Lei Kihoi.

23. On July 20, 2012, Kana'iolowalu, officially kicked off the effort to enroll Native Hawaiians, at Washington Place with more than 100 people present.

24. From July 20, 2012 until present, the named Defendants have either actively conspired to perpetrate a FRAUD upon the Kanaka Maoli, as well as the rest of the citizens of the State of Hawaii, by:

- a.) Claiming that over 125,000 people had ***signed up*** for the “Roll Call”;
- b.) When in actuality, the named Defendants padded the so-called “Roll Call” with lists from Kamehameha Schools enrollment, Kau Inoa Native Hawaiian enrollment, Department of Hawaiian Home Lands leasee lists, and even prisoners incarcerated in prison;
- c.) Then the named Defendants promised to produce the “Roll Call” list, by stating:
“The list can be viewed at locations across the state at 30 locations, including OHA offices (see below). You can also view the list online at www.HawaiianRoll.org/list, beginning on March 24th and ending on April 4th.” (claiming to have the lists available for public viewing at various locations throughout the State of Hawaii.).
- d.) As of the present date, the named Defendants continue to claim that more than 125,000 people had signed up for the “Roll Call”, with NO EVIDENCE to substantiate the claims
- e.) The named OHA Defendants, intentionally, knowingly and recklessly, used their position of authority to Fraudulently steal several millions of Beneficiary Dollars, on a “Roll Call” process that did NOT PRODUCE OVER 125,000 NAMES;
- f.) The named OHA Defendants continue to conceal how many millions of Beneficiary Dollars has actually gone into the “Roll Call” program;

- g.) The named NHRC Defendants and the named OHA Defendants conspired with each other to Fraudulently take Beneficiary Dollars for their own personal financial gain;
- h.) The named NHRC and OHA Defendants conspired to claim that more than 125,000 people had “signed-up” for the Native Hawaiian “Roll Call”;
- i.) Defendant Abercrombie aided the named NHRC and OHA Defendants in their conspiracy, by using his Office of the Governor and his authority as the Governor of the State of Hawaii, as “cover” or a “shield” of the named NHRC and OHA Defendants in their Fraudulent claims of having more than 125,000 people register for the Native Hawaiian “Roll Call”.
- j.) All the named Defendants are actively pursuing , at this very moment, Federal Recognition of Native Hawaiians, upon the False premise that more than 125,000 people “registered” to support their (the Named Defendants),efforts to pursue Federal Recognition and with that, to tap into the millions of dollars of Federal Aide, offered by the Federal Government;
- k.) All the named Defendants have acted in each instance mentioned herein and above, Knowingly, Intentionally, and Recklessly to DEFRAUD the Native Hawaiian Beneficiaries of the monies that comes into Defendant OHA, for the express purpose of promoting the betterment of the Native Hawaiian people;
- l.) All the named Defendants have acted in each instance set forth herein and above, with Malice Aforethought, to conspire and defraud the Beneficiaries of the

valuable monies that are within their TRUST, and to continue their conspiracy to present the Fraudulent claim of representing over 125,000 people who, they say: "signed up", for their Native Hawaiian "Roll Call".

FIRST CAUSE OF ACTION

Plaintiffs hereby incorporated as reference the allegations made in numbers 1 thru 23 and subsection a.) thru l.).

25. The named Defendants have violated the Plaintiffs Civil Rights by engaging in the FRAUDULENT act of stealing Beneficiary Funds to funnel through the so-called Native Hawaiian "Roll Call";

Plaintiffs hereby incorporated as reference the allegations made in numbers 1 thru 23 and subsection a.) thru l.).

26. The named Defendants have violated the Plaintiffs Civil Rights as Native Hawaiian Beneficiaries, by engaging in a CONSPIRACY to DEFRAUD the Native Hawaiian Beneficiaries, and by stealing Beneficiary Funds to funnel through the so-called Native Hawaiian "Roll Call";

Plaintiffs hereby incorporated as reference the allegations made in numbers 1 thru 23 and subsection a.) thru l.).

27. The named Defendants have violated Plaintiffs Civil Rights by failing to report the Fraud and Conspiracy of the FRAUDULENT act of stealing Beneficiary Funds to funnel through the so-called Native Hawaiian "Roll Call";

Plaintiffs hereby incorporated as reference the allegations made in numbers 1 thru 23 and subsection a.) thru l.).

28. The named Defendants of OHA have BREACHED their Fiduciary Duties by using Fraud and conspiracy to steal valuable monies that belong to the Native Hawaiians;

RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and all other persons similarly situated, request that this Honorable Court:

- A. Certify this action as a class action.
- B. Issue a temporary restraining order directing Defendants to delay all actions regarding the "government-to-government" efforts between named Defendants and the Federal Government, the "Nation Building" efforts of which the named Defendants are engaging in at the moment, until such time as Plaintiffs request for preliminary relief contained in this complaint can be heard and determined by this Honorable Court.
- C. Issue a temporary restraining order directing Defendants to **stop all funding** that's going into the "government-to-government" efforts between named Defendants and the Federal Government, the "Nation Building" efforts of which the named Defendants are engaging in at the moment, until such time as Plaintiffs request for preliminary relief contained in this complaint can be heard and determined by this Honorable Court.

D. Issue a Preliminary Injunction:

- (i.) Directing Defendants to make public a complete accounting of all funds that was used to fund Kana`iolowalu. I.e. How much money was spent, and to whom the money went to;
- (ii.) Directing the Defendants to fulfill their Fiduciary duty by making public the Kana`iolowalu “Roll Call” list of all persons who ACTUALLY signed up for the “Roll Call”.

E. Issue a Declaratory Judgment declaring that the named OHA Defendants failure to make public: a.) the Exact dollar amount that funded Kana`iolowalu; b.) who actually received the OHA funds; and c.) the list of all persons who ACTUALLY signed up for the Native Hawaiian “Roll Call” with Kana`iolowalu, is a direct “BREACH of TRUST”, and a “BREACH of their FIDUCIARY DUTIES” under established case law pursuant to 42 U.S.C. § 1983.

F. Issue Permanent Injunctions:

- (i.) to make public all records, memos and information regarding Kana`iolowalu and the Native Hawaiian “Roll Call”, created by the named Defendants;
- (ii.) to produce an updated list of ACTUAL people who sign up for the Native Hawaiian “Roll Call”, and publish same at least once every thirty (30) days;
- (iii.) to make public the FULL FINANCIAL DISCLOSURE of all money spent on Kana`iolowalu, and efforts to create a “government-to-government” governing entity, as well as efforts to obtain “Federal Recognition”.

G. Maintain jurisdiction of this case.

H. Award Plaintiffs their costs and disbursements and reasonable attorney fees
(should counsel be acquired at some point in this litigation).

I. Grant Plaintiffs and all other persons similarly situated such other and alternative relief that this Honorable Court deems just and equitable.

Dated: Honolulu, Hawaii, August 4, 2014.



De MONT R. D. CONNER
Pro Se, and


Rachel L. Kailianu-CONNER
Pro Se